

## PART 573—COMPLIANCE AND ENFORCEMENT

Sec.

573.1 What is the purpose of this part?

573.2 When may a letter of concern be issued?

573.3 Notice of violation.

573.4 When may the Chair issue an order of temporary closure?

573.5 When does an enforcement action become final agency action?

AUTHORITY: 25 U.S.C. 2706(b)(10); 25 U.S.C. 2713; E.O. 13175, 65 FR 67249, 3 CFR, 2000 Comp., p.304.

SOURCE: 58 FR 5844, Jan. 22, 1993, unless otherwise noted.

### § 573.1 What is the purpose of this part?

Voluntary compliance is the goal of the Commission. Voluntary compliance is achieved when a tribe and the NIGC staff are able to resolve any potential enforcement issues prior to the Chair issuing an enforcement action. This part sets forth efforts for achieving voluntary compliance and enforcement action when voluntary compliance is not forthcoming. While this part is intended to garner voluntary compliance through a graduated enforcement process, there may be circumstances under which a graduated enforcement process is omitted and an enforcement action must be taken. This part also sets forth general rules governing the Commission's enforcement of the Act, this chapter, and tribal ordinances and resolutions approved by the Chair under part 522 of this chapter. Civil fines in connection with notice of violation issued under this part are addressed in part 575 of this chapter.

[77 FR 47518, Aug. 9, 2012]

### § 573.2 When may a letter of concern be issued?

(a) Prior to the Chair taking an enforcement action, a letter of concern may be provided to the respondent by NIGC staff, detailing concerns regarding the respondent's compliance with the Act, this chapter, or any tribal ordinance or resolution approved by the Chair under part 522 of this chapter. A letter of concern describes the available facts and information, includes a preliminary assessment regarding the

incident or condition, and indicates that it may be a violation.

(b) Action under this section does not constitute agency action.

(c) A letter of concern issued under paragraph (a) of this section must provide a time period for the respondent to respond. If the letter of concern is resolved without enforcement action, NIGC staff may send an investigation completion letter pursuant to § 571.4 of this chapter.

(d) The Chair's discretion to take an enforcement action is not limited or constrained in any way by this section. When the Chair takes enforcement action before a letter of concern is issued, the enforcement action must state the reasons for moving directly to an enforcement action without first issuing a letter of concern.

[77 FR 47519, Aug. 9, 2012, as amended at 78 FR 4324, Jan. 22, 2013]

### § 573.3 Notice of violation.

(a) The Chair may issue a notice of violation to any person for violations of any provision of the Act or this chapter, or of any tribal ordinance or resolution approved by the Chair under part 522 of this chapter.

(b) A notice of violation shall contain:

(1) A citation to the federal or tribal requirement that has been or is being violated;

(2) A description of the circumstances surrounding the violation, set forth in common and concise language;

(3) Measures required to correct the violation;

(4) A reasonable time for correction, if the respondent cannot take measures to correct the violation immediately; and

(5) Notice of rights of appeal.

[58 FR 5844, Jan. 22, 1993, as amended at 77 FR 47519, Aug. 9, 2012]

### § 573.4 When may the Chair issue an order of temporary closure?

(a) *When an order of temporary closure may issue.* Simultaneously with or subsequently to the issuance of a notice of violation under § 573.3, the Chair may issue an order of temporary closure of